

The Court has received the Second Revised Presentence Investigation Report and Addendum (“PSR”) and the Defendant's objections thereto (Filing No. 39). The Defendant has filed a Motion for Variance from the Sentencing Guidelines (Filing No. 36), a Motion for Downward Departure (Filing No. 37), and supporting brief (Filing No. 38). See Order on Sentencing Schedule, ¶ 6 and Text Order Filing No. 35. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The Defendant's Objections to the Second Revised Presentence Report (Filing No. 39) will be heard at the sentencing hearing;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 2 of this Order, these tentative findings are final;

5. The Defendant's Motion for Variance from the Sentencing Guidelines (Filing No. 36) and Motion for Downward Departure (Filing No. 37) will be heard at sentencing; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 18th day of December, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge